THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO. 11574 of 1996

DATED: 26..12..2005

BETWEEN:

T. Appala Ramachandra Raju and 11 others …Petitioners

and

Revenue Divisional Officer and another …Respondents

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

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ORDER:

Aggrieved by the order remanding the case, while allowing the appeal preferred by the petitioners to him by the Appellate Authority under the A.P.(Andhra Area) Slum Improvement (Acquisition of Land) Act, 1956, (for short 'the act') the claimants preferred this petition. Land in T.S.No.124, Block IV of Maharanipet, Visakhapatnam was acquired under the provisions of the Act. The primary authority initially fixed some amount as the compensation payable to the writ petitioners and later reviewed that order. Questioning the same, the petitioners filed C.M.A.No.74/1992 before the Appellate Authority under the Act, i.e. the District Judge, who by his order dated 02-11-1994 by allowing the appeal and setting aside the order of the Prescribed Authority, remanded the case to the Prescribed Authority for arriving at the true area of the land acquired as required under Rule 13(2)(a) of the Rules and thereafter arrive at the net average annual income and determine the compensation payable to the revision petitioners.

The contention of the learned counsel for the petitioners is that when all the documents and material is before the Appellate Authority, and when admittedly the Act does not confer any right of remand on it, the Appellate Authority was in error in remanding the case. He relied on "***A.V.KRISHNA RAO v. GOVERNMENT OF A.P.***" where it is held that the Prescribed Authority under the Act has no power to redetermine the compensation payable to acquired lands after publication of Gazette notification under Section 6(3) and contended that when once the compensation was determined, the Primary Authority reviewing its order is bad.

The contention of the learned Assistant Government Pleader is since the Appellate Authority felt that there is a discrepancy in the area, it had remanded the case to the Tribunal and so there are no grounds to interfere with the order.

Since, the Act does not confer the power of remand on the Appellate Authority and since the Appellate Authority by taking into consideration the record available before it, can determine the compensation payable to the petitioners, the appellate authority was in error in remanding the case to the Primary Authority, and should have disposed of the case basing on the material or by taking such steps as are necessary for arriving at the correct compensation payable to the petitioners.

Therefore, the order of the Appellate Authority impugned this writ petition is set aside with a direction to the Appellate Authority to dispose of the case on merits basing on the record and after following the procedure prescribed under the Act and the rules made there under. No costs.

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C.Y.SOMAYAJULU, J.

Dated: 26-12-2005

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